

Calendar No. 209

111TH CONGRESS
1ST SESSION

S. 1472

To establish a section within the Criminal Division of the Department of Justice to enforce human rights laws, to make technical and conforming amendments to criminal and immigration laws pertaining to human rights violations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 20, 2009

Mr. DURBIN (for himself, Mr. COBURN, Mr. LEAHY, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

NOVEMBER 6, 2009

Reported by Mr. LEAHY, with amendments

[Omit the part struck through and insert the part printed in *italie*]

A BILL

To establish a section within the Criminal Division of the Department of Justice to enforce human rights laws, to make technical and conforming amendments to criminal and immigration laws pertaining to human rights violations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Human Rights En-
3 forcement Act of 2009”.

4 **SEC. 2. SECTION TO ENFORCE HUMAN RIGHTS LAWS.**

5 (a) REPEAL.—Section 103(h) of the Immigration and
6 Nationality Act (8 U.S.C. 1103(h)) is repealed.

7 (b) SECTION TO ENFORCE HUMAN RIGHTS LAWS.—
8 Chapter 31 of title 28, United States Code, is amended
9 by inserting after section 509A the following:

10 **“§ 509B. Section to enforce human rights laws**

11 “(a) Not later than 90 days after the date of the en-
12 actment of the Human Rights Enforcement Act of 2009,
13 the Attorney General shall establish a section to enforce
14 human rights laws within the Criminal Division of the De-
15 partment of Justice.

16 “(b) The section is authorized to—

17 “(1) identify individuals who are suspected of
18 committing serious human rights offenses under
19 Federal law;

20 “(2) take appropriate legal action, including
21 prosecution, denaturalization or extradition, against
22 the individuals identified pursuant to paragraph (1);
23 and

24 “(3) coordinate any such legal action with the
25 United States Attorney for the relevant jurisdiction.

1 “(c) The Attorney General shall consult with the Sec-
 2 retary of Homeland Security and the Secretary of State
 3 in making determinations regarding the prosecution, re-
 4 moval, denaturalization, extradition, or exclusion of natu-
 5 ralized citizens or aliens who are suspected of committing
 6 serious human rights offenses under Federal law.

7 “(d) In determining the appropriate legal action to
 8 take against individuals who are suspected of committing
 9 serious human rights offenses under Federal law, the sec-
 10 tion shall take into consideration the availability of crimi-
 11 nal prosecution under the laws of the United States for
 12 such offenses or in a foreign jurisdiction that is prepared
 13 to undertake a prosecution for the conduct that forms the
 14 basis for such offenses.

15 “(e) The term ‘serious human rights offenses under
 16 Federal law’ includes—

17 “(1) violations of Federal criminal laws relating
 18 to genocide, torture, war crimes, and the use or re-
 19 cruitment of child soldiers under sections 1091,
 20 2340, 2340A, 2441, and 2442 of title 18, United
 21 States Code; and

22 “(2) genocide, torture, extrajudicial killings,
 23 Nazi persecution, or the use or recruitment of child
 24 soldiers, as described in subparagraphs (E) and (G)

1 of section ~~212(a)(3)~~ of the Immigration and Nation-
 2 ality Act (~~8 U.S.C. 1182(a)(3)~~).”

3 **“§ 509B. Section to enforce human rights laws**

4 “(a) Not later than 90 days after the date of the enact-
 5 ment of the Human Rights Enforcement Act of 2009, the
 6 Attorney General shall establish a section within the Crimi-
 7 nal Division of the Department of Justice with responsi-
 8 bility for the enforcement of laws against suspected partici-
 9 pants in serious human rights offenses.

10 “(b) The section established under subsection (a) is au-
 11 thorized to—

12 “(1) take appropriate legal action against indi-
 13 viduals suspected of participating in serious human
 14 rights offenses; and

15 “(2) coordinate any such legal action with the
 16 United States Attorney for the relevant jurisdiction.

17 “(c) The Attorney General shall, as appropriate, con-
 18 sult with the Secretary of Homeland Security and the Sec-
 19 retary of State.

20 “(d) In determining the appropriate legal action to
 21 take against individuals who are suspected of committing
 22 serious human rights offenses under Federal law, the section
 23 shall take into consideration the availability of criminal
 24 prosecution under the laws of the United States for such
 25 offenses or in a foreign jurisdiction that is prepared to un-

1 *dertake a prosecution for the conduct that forms the basis*
 2 *for such offenses.*

3 “(e) *The term ‘serious human rights offenses’ includes*
 4 *violations of Federal criminal laws relating to genocide,*
 5 *torture, war crimes, and the use or recruitment of child sol-*
 6 *diers under sections 1091, 2340, 2340A, 2441, and 2442 of*
 7 *title 18, United States Code.”.*

8 (c) CLERICAL AMENDMENT.—The table of sections
 9 at the beginning of chapter 31 of the title 28, United
 10 States Code, is amended by inserting after the item relat-
 11 ing to section 509A the following:

“Sec. 509B. Section to enforce human rights laws.”.

12 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

13 (a) GENOCIDE.—Section 1091 of title 18, United
 14 States Code, is amended—

15 (1) in subsection (a)—

16 (A) by striking “, in a circumstance de-
 17 scribed in subsection (d)”;

18 (B) by striking “or attempts to do so,”;

19 (2) in subsection (c), by striking “in a cir-
 20 cumstance described in subsection (d)”;

21 (3) by striking subsection (d) and (e); and

22 (4) by inserting after subsection (c) the fol-
 23 lowing:

24 “(d) ATTEMPT AND CONSPIRACY.—Any person who
 25 attempts or conspires to commit an offense under this sec-

tion shall be punished in the same manner as a person who completes the offense.

“(e) JURISDICTION.—There is jurisdiction over the offenses described in subsections (a), (c), and (d) if—

“(1) the offense is committed in whole or in part within the United States; or

“(2) regardless of where the offense is committed, the alleged offender is—

“(A) a national of the United States (as that term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101));

“(B) an alien lawfully admitted for permanent residence in the United States (as that term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101));

“(C) a stateless person whose habitual residence is in the United States; or

“(D) present in the United States.

“(f) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Notwithstanding section 3282, in the case of an offense under this section, an indictment may be found, or information instituted, at any time without limitation.”.

(b) IMMIGRATION AND NATIONALITY ACT.—Section 212(a)(3)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)(ii)) is amended by striking “or-

1 dered, incited, assisted, or otherwise participated in con-
 2 duct outside the United States that would, if committed
 3 in the United States or by a United States national, be
 4 genocide, as defined in section 1091(a)” and inserting
 5 “has engaged in genocide in violation of section 1091”.

6 (b) *IMMIGRATION AND NATIONALITY ACT.*—Section
 7 212(a)(3)(E)(ii) of the *Immigration and Nationality Act*
 8 (8 U.S.C. 1182(a)(3)(E)(ii)) is amended by striking “con-
 9 duct outside the United States that would, if committed in
 10 the United States or by a United States national, be”.

11 (c) *APPLICABILITY.*—The amendments made by sub-
 12 sections (b), (c), and (d) of the Child Soldiers Account-
 13 ability Act of 2008 (Public Law 110–340) shall apply to
 14 offenses committed before, on, or after the date of the en-
 15 actment of the Child Soldiers Accountability Act of 2008.

16 (d) *MATERIAL SUPPORT FOR GENOCIDE OR CHILD*
 17 *SOLDIER RECRUITMENT.*—Section 2339A(a) of title 18,
 18 United States Code, is amended by—

- 19 (1) inserting “, 1091” after “956”; and
- 20 (2) striking “, or 2340A” and inserting “,
 21 2340A, or 2442”.

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